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PAGE 01 PARIS 02068 01 OF 03 231457Z
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SUBJECT: MEETING OF INFORMAL CONTACT GROUP OF COMMITTEE
ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES
(CIME), JANUARY 19, 1978

REF: (A) PARIS 35752; (B) USUN 104

1. SUMMARY: CONTACT GROUP HELD WIDE-RANGING DISCUSSION
OF PREPARATIONS FOR FEBRUARY 6 UN TNC CODE OF CONDUCT
MEETING IN NEW YORK AND PRODUCED GENERAL AGREEMENT ON
DRAFTING OF A NUMBER OF OPTIONAL APPROACHES TO ANTICI-
PATED DISCUSSION OF PREAMBULAR ISSUES. GROUP REVIEWED
ACTIVITIES OF TNC CENTER, QUESTION OF MAY TNC COMMISSION
MEETING CHAIRMANSHIP, AND RESPONSES OF WESTERN GROUP TO
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PAGE 02 PARIS 02068 01 OF 03 231457Z

UN SECRETARY-GENERAL'S REQUEST FOR REPORTS ON BUSINESS
ACTIVITY IN SOUTHERN AFRICA. U.S. NOTED IT FAVORED
AD HOC MEETING ON ILLICIT PAYMENTS BEFORE MARCH 6 ECOSOC
WORKING GROUP MEETING AND ASKED FOR REACTION FROM OTHERS.
NEXT CONTACT GROUP MEETING WAS FIXED FOR MORNING OF FEB-
RUARY 6 IN NEW YORK. U.S. DEL HELD PRIVATE CONVERSATIONS
WITH SWISS AND FRG DELS ON POSSIBLE CODE ON ACTIVITIES

OF MULTINATIONAL ENTERPRISES IN SOUTH AFRICA.
END SUMMARY

2. CODE OF CONDUCT PREPARATIONS: AT SUGGESTION OF U.S. DEL, CHAIRMAN SANDERS (NETHERLANDS) OPENED MEETING BY RAISING GROUP TACTICS FOR ABBREVIATED FEBRUARY 6-10 MEETING OF UN WORKING GROUP ON CODE. OTHER DELS INDICATED THEIR UN MISSIONS HAD REPORTED THAT SECOND WEEK OF ORIGINALLY SCHEDULED TWO-WEEK FEBRUARY 6-17 MEETING MIGHT STILL TAKE PLACE, DEPENDING UPON AVAILABILITY OF CONFERENCE ROOMS (NOTE CONTRADICTORY INFO IN REFTEL B). IT WAS AGREED FIRM DECISION ON LENGTH OF MEETING SHOULD BE FIRST PRIORITY ON FEBRUARY 6.

3. U.S. DEL (BOERNER) URGED POSITIVE, CONSTRUCTIVE ATTITUDE BY WESTERN GROUP AT FEBRUARY MEETING, INCLUDING INTRODUCTION OF COMPROMISE CIEC TEXTS ON INVESTMENT, WHERE APPROPRIATE. HE NOTED G-77 POSITION FOR MEETING HIGHLY UNCERTAIN, GIVEN APPARENT LOW PRIORITY IT ATTACHES TO CODE (AS REFLECTED IN EARLIER UN STATEMENTS AND APPARENT CANCELLATION OF SECOND WEEK OF FEBRUARY MEETING) AND LIKELIHOOD THAT NO SERIOUS REVIEW OF ITS POSITION WILL TAKE PLACE PRIOR TO FEBRUARY. POSSIBLE SIGNAL OF G-77 INTENTIONS WILL BE LEVEL OF REPRESENTATION, INCLUDING WHETHER REPS FROM CAPITALS ATTEND FEBRUARY MEETING. U.S. DEL FELT THAT UNDERSTANDING OF WORKING GROUP HEADS OF LIMITED OFFICIAL USE

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PAGE 03 PARIS 02068 01 OF 03 231457Z

DEL (IN MEETING IN NEW YORK LAST NOVEMBER) THAT SECTIONS IIIA AND IV OF NIKLASSON ANNOTATED OUTLINE WOULD BE DISCUSSED IN FEBRUARY MEETING IS NOW IN DOUBT BECAUSE OF SHORTENED MEETING. U.S. DEL URGED OECD COUNTRIES, AT OPENING OF FEBRUARY 6 MEETING, TO PRESS FOR CONFIRMATION BY G-77 THAT SERIOUS DISCUSSION OF THOSE SECTIONS WILL TAKE PLACE, EITHER DURING SECOND WEEK OF FEBRUARY MEETING, IF HELD, OR AT OUTSET OF RENEWED WORKING GROUP SESSION IN MARCH. IF SUCH CONFIRMATION RECEIVED, HE INDICATED U.S. IS PREPARED TO ACCEPT EXPLORING NONCONTROVERSIAL PREAMBLE AND OBJECTIVES AS FIRST ORDER OF BUSINESS. HOWEVER, DISCUSSION OF SECTIONS IIIA AND IV WOULD BE PRESSED, IF AGREEMENT NOT CONFIRMED, OR IF NECESSARY TO RESPOND TO HARD SUBSTANTIVE G-77 POSITION ON PREAMBLE (SEE PARAS. 5 AND 6 BELOW). U.S. RESTATED LACK OF AUTHORITY TO DRAFT FORMAL CODE ARTICLES AS G-77 DESIRED, BUT INDICATED THAT AMBIGUITY ABOUT THE STATUS OF ANY DRAFTING COULD BE TOLERATED, IF THIS RESERVATION BORNE IN MIND.

4. IN DISCUSSION WHICH FOLLOWED U.S. INTERVENTION,

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PAGE 01 PARIS 02068 02 OF 03 231522Z
ACTION EUR-12

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LIMITED OFFICIAL USE SECTION 02 OF 03 PARIS 02068

CONSENSUS FAVORED LOW KEY APPROACH TO AWAIT CLARIFICATION OF G-77 INTENTIONS IN DISCUSSION ON PROCEDURE AND PREAMBLE. SWEDISH DEL REPORTED THAT WORKING GROUP CHAIRMAN NIKLASSON NOT PLANNING TO PRESENT NEW PAPER AT MEETING, AND THAT NIKLASSON WISHED TO AVOID BLOCK DRAFTING EXERCISES AND ATMOSPHERE OF CONFRONTATION. UK DEL (DENHAM) RECALLED THAT INDUSTRIALIZED COUNTRIES IN PAST HAD NOT TABLED TEXTS, BUT MADE INFORMAL SUGGESTIONS TO CHAIRMAN. IN HER OPINION, UNLESS G-77 TOOK LEAD, NO FORMAL TABLING OF LANGUAGE WOULD BE REQUIRED.

5. DISCUSSION OF FRG PAPER ON PREAMBLE AND OBJECTIVES PRODUCED AGREEMENT THAT GROUP SHOULD BE PREPARED WITH A RANGE OF OPTIONS. FRG DRAFT GENERALLY VIEWED AS GOOD, BALANCED STATEMENT, BUT VARIOUS DELS NOTED THAT IT RAISED A NUMBER OF SUBSTANTIVE POINTS (NATURE OF CODE, WHICH AFTER DISCUSSION FRG DEL AGREED SHOULD BE LIMITED OFFICIAL USE

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PAGE 02 PARIS 02068 02 OF 03 231522Z

LEFT TO LATER STAGE; BALANCE BETWEEN TNC AND GOVERNMENT RESPONSIBILITIES; NONDISCRIMINATORY TREATMENT OF TNC'S), AND THAT POSITIVE TONE REGARDING TNC ECONOMIC CONTRIBUTIONS COULD BE CONTROVERSIAL. UK DEL OBJECTED TO REFERENCE (BASED ON CIEC LANGUAGE) TO FOREIGN "PRIVATE" INVESTMENT WHICH RAISED PROBLEM OF COVERAGE OF STATE ENTERPRISES (SAME CRITICISM WAS NOT MADE IN CONTEXT OF ANALOGOUS PORTIONS OF U.S. REVISION OF SECTIONS IIIA AND IV). CONSENSUS FAVORED OMNIBUS REFERENCE TO RELEVANT UN RESOLUTIONS AND OTHER DOCUMENTS, BUT FULL LISTING COULD BE ACCEPTED; U.S. DEL SUGGESTED OPTION OF REFERRING ONLY TO ECOSOC RESOLUTIONS WHICH GAVE WORKING GROUP ITS MANDATE.

6. FRG DEL UNDERTOOK TO REVISE PAPER IN LIGHT OF ABOVE COMMENTS; FRENCH DEL ALSO PROPOSED CONDENSATION OF FRG PAPER TO TONE DOWN POSITIVE ROLE OF TNC'S AND VOLUNTEERED TO PREPARE REDRAFT. U.S. DEL LINKED PREPARATIONS ON PREAMBLE TO GROUP'S CONSENSUS ON AVOIDING CONFRONTATION AT BEGINNING OF SESSION. HE SUGGESTED THAT A SIMPLER, NONSUBSTANTIVE PREAMBLE SHOULD BE PREPARED AS AN OPTION SINCE, GIVEN UNCERTAINTY OVER G-77 INTENTIONS, GROUP SHOULD HAVE A RANGE OF POSSIBLE RESPONSES RANGING FROM SUCH AN UNCONTROVERSIAL TEXT THROUGH THE FRG APPROACH TO A STRONGER VERSION BORROWING APPROPRIATE POINTS FROM U.S. PAPER ON SECTIONS IIIA AND IV. A NUMBER OF DELS FAVORED TRYING OUT SIMPLIFIED PREAMBLE WITH G-77, AND U.S. DEL AGREED TO PREPARE A DRAFT FOR NEXT CONTACT GROUP MEETING. U.S. STRESSED THAT SUCH AN APPROACH SHOULD BE CONDITIONED ON G-77 AGREEMENT TO SATISFACTORY PROCEDURE FOR DISCUSSION OF SECTIONS IIIA AND IV, AND AVOIDANCE ON THEIR PART OF CONTENTIOUS LANGUAGE.
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PAGE 03 PARIS 02068 02 OF 03 231522Z

7. U.S. REVISION OF PAPER ON SECTIONS IIIA AND IV OF ANNOTATED CODE OUTLINE: U.S. DEL GAVE BRIEF SUMMARY OF CHANGES INCORPORATED IN REDRAFT, AND NOTED PAPER WOULD BE USEFUL IN DEALING BOTH WITH SECTIONS ON TNC AND GOVERNMENT RESPONSIBILITIES AND WITH PREAMBLE AND OBJECTIVES SECTIONS, IF G-77 RAISES SUBSTANTIVE POINTS IN THESE AREAS. GENERAL REACTION COMMENDED REDRAFT, BUT DISCUSSION IN DETAIL WAS DEFERRED TO NEW YORK MEETING OF CONTACT GROUP TO PERMIT MORE THOROUGH REVIEW IN CAPITALS.

8. ILO DECLARATION OF PRINCIPLES: UK DEL PRESENTA-

TION OF UK PAPER ON UN HANDLING OF ILO DECLARATION
BACKED OFF FROM ADOPTION PROPOSAL FLOATED AT LAST CON-
TACT GROUP MEETING (PARA. 10 REFTTEL A). UK DEL CITED
AS REASONS AGAINST ANY KIND OF FORMAL ADOPTION:
(1) SHORTENING OF CODE MEETING; (2) DOUBTS ABOUT G-77
RESPONSIVENESS, PENDING PROGRESS ON CODE; (3) EXPECTED
ABSENCE FROM NEW YORK MEETING OF UK "PROFOUND PERSON"
(LEA) WHO WAS TO ARRANGE FOR LDC MEMBER TO TAKE INITI-
ATIVE IN RAISING QUESTION; AND (4) PROBLEM OF RECONCIL-
ING FUTURE ILO AND TNC CODE FOLLOW-UP MECHANISM, PRIN-
CIPALLY CAUSED BY U.S. WITHDRAWAL FROM ILO. UK PROPOSED
THAT TNC COMMISSION SIMPLY ENDORSE THE ILO DECLARATION
AT ITS MAY MEETING, AND LEAVE CODE RELATIONSHIP TO LATER
DATE. CONSENSUS SUPPORTED THIS, BUT U.S. STRESSED THAT
FORM OF ENDORSEMENT WAS IMPORTANT, BECAUSE WE COULD NOT
ALLOW SUCH AN ENDORSEMENT TO COMPROMISE U.S. POSITION ON
ILO OR UN FOLLOW-UP MECHANISM.

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PAGE 01 PARIS 02068 03 OF 03 231505Z
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LIMITED OFFICIAL USE SECTION 03 OF 03 PARIS 02068

9. CHAIRMANSHIP OF MAY TNC COMMISSION MEETING. CANA-
DIAN DEL ANNOUNCED CANADIAN CANDIDACY FOR CHAIRMANSHIP
(GEOFFREY BRUCE), WHICH GENERATED NO OBJECTION. A NUM-

BER OF DELS NOTED UTILITY OF WESTERN CHAIRMANSHIP AT SESSION DEALING WITH IMPORTANT QUESTIONS OF INFORMATION SYSTEMS AND ACCOUNTING STANDARDS.

10. INFORMATION SYSTEM: CONTACT GROUP REVIEWED DEVELOPMENTS AT UN INFORMATION CENTRE SINCE LENGTHY DISCUSSION ON THIS SUBJECT AT GROUP'S LAST MEETING (SEE REFTTEL A). A GERMAN NOTE ON INFORMATION, AS WELL AS U.S. LETTER TO CENTRE, WERE DISTRIBUTED TO GROUP. SEVERAL DELEGATES REPORTED ON JANUARY 3RD MEETING HELD BY CENTRE DIRECTOR SAHLGREN WITH THIRTEEN EXPERTS AND NOTED THAT SAHLGREN'S PLAN APPARENTLY IS TO ENLIST SEVERAL CONSULTANTS TO REVISE FEASIBILITY STUDY DURING MONTH OF FEBRUARY FOR LIMITED OFFICIAL USE

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PAGE 02 PARIS 02068 03 OF 03 231505Z

CIRCULATION TO TNC MEMBERS BEFORE MAY TNC COMMISSION MEETING.

11. ILLICIT PAYMENTS: U.S. DEL NOTED OUR UNHAPPINESS WITH POSTPONEMENT OF ECOSOC WORKING GROUP MEETING TO MARCH 6, AND SAID U.S. FAVORED ADVANCE AD HOC CONSULTATION AMONG OECD COUNTRIES, EITHER IN PARIS OR IN NEW YORK ON FRIDAY PRECEDING ECOSOC MEETING. CONSULTATIONS COULD EMBRACE UN DEVELOPMENTS, AS WELL AS DISCUSSION OF OTHER ALTERNATIVE APPROACHES TO AN AGREEMENT. ONLY REACTION CAME FROM SWISS DEL, WHO COMMENTED THAT AD HOC MEETING LAST JUNE HAD BEEN VALUABLE AND SUPPORTED PROPOSAL. DELS WERE ASKED TO REPORT PROPOSAL TO RESPONSIBLE OFFICIALS IN CAPITALS.

12. REPORTS TO UN ON BUSINESS ACTIVITIES IN SOUTHERN AFRICA: U.S. DEL PROVIDED GROUP WITH COPIES OF TENTATIVE DRAFT U.S. RESPONSE TO NOTE OF UN SECRETARY-GENERAL SOLICITING REPORTS PURSUANT TO TNC COMMISSION RESOLUTION E/C.10/L.17. MANY DELS, INCLUDING UK, FRG, FRANCE AND BELGIUM, INDICATED THAT THEY DID NOT PLAN TO RESPOND AT ALL IN LIGHT OF THEIR VOTES AND STATEMENTS AT TIME RESOLUTION ADOPTED. ONLY SWEDISH AND SWISS DELS INDICATED THEY PLAN TO REPLY, BUT DID NOT DISCLOSE SUBSTANCE; CANADIANS STILL WEIGHING WHETHER TO RESPOND.

13. U.S. DEL TOOK OPPORTUNITY OF MEETING TO HOLD PRIVATE CONVERSATIONS WITH SWISS (LEVY) AND GERMAN (SCHULE) DELS ON SUBJECT OF POSSIBLE U.S. INITIATIVE TO CONVENE MEETING OF COUNTRIES WITH SIGNIFICANT INVESTMENT IN SOUTH AFRICA. WITH GERMAN DEL, HE SIMPLY NOTED ABSENCE OF ANY FRG BILATERAL RESPONSE TO U.S. QUERY ON ITS VIEWS; SCHULE SAID HE WAS UNFAMILIAR WITH ISSUE, BUT WOULD LIMITED OFFICIAL USE

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PAGE 03 PARIS 02068 03 OF 03 231505Z

CHECK ON HIS RETURN TO BONN THIS WEEKEND. HE ASSUMED FRG RESPONSE WOULD BE FAVORABLE, SINCE FRG WAS INTERESTED IN COMMON STARTING POINT FOR ALL FIRMS. WITH LEVY, WE NOTED EARLIER POSITIVE RESPONSE TO PROPOSAL AND ASKED WHY SWISS WERE RELUCTANT THEMSELVES TO TAKE INITIATIVE IN SPONSORING SUCH A MEETING. LEVY SAID SWISS GOVERNMENT VERY INTERESTED IN A COMMON CODE, BUT WAS NOW UNDER FIRE FROM ITS BUSINESS COMMUNITY FOR PROCEEDING TOO RAPIDLY ON SOUTH AFRICAN ISSUE (AND NOT BEING ABLE TO BLOCK APPLICATION OF NEW EC CODE REPORTING REQUIREMENTS TO THOSE SWISS SUBSIDIARIES IN EC WHICH OPERATE IN SOUTH AFRICA). HE THOUGHT POSSIBLE LOCATION FOR MEETING MIGHT BE GENEVA, WHERE SWISS COULD HELP WITH ARRANGEMENTS, OR IN PARIS "ON THE SIDE OF THE OECD," POSSIBLE AT A MIS-SION OF AN OECD MEMBER. HE SAID HE ALSO FAVORED INVITING NON-OECD MEMBERS WITH SIGNIFICANT INVESTMENT IN SOUTH AFRICA, SUCH AS IRAN.
SALZMAN

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